

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LAKESHA MANNING ,

Plaintiff,

v.

FXI INC. ,

Defendant.

CASE NO. 2:21-cv-01233-LK

**ORDER REGARDING MOTION TO
COMPEL DISCOVERY AND FOR
SANCTIONS**

Defendant's Motion to Compel Discovery, Dkt. 18, was referred¹ to the undersigned United States Magistrate Judge on June 30, 2022.

The parties appear to have largely resolved the discovery dispute at issue. However, the price paid to achieve that resolution has resulted in each side accusing the other of engaging in sanctionable conduct, and mutual requests that attorney fees be awarded.

The matter was formally initiated on June 16, 2022 when Defendant moved the Court to sanction Plaintiff for dragging her feet on providing a Rule 26 damages computation and failing to adequately answer Interrogatory 10. *Id.* at 11. The motion was noted for July 1, 2022, making Plaintiff's response due on June 27, 2022. Plaintiff failed to timely respond, and Defendant thus

¹ If the parties wish to consent to Magistrate Judge Tsuchida, the parties may email Andy_Quach@wawd.uscourts.gov. that they wish to consent. Once consent is given, the case will be reassigned to Judge Tsuchida who will preside over the entire case including entry of judgment.

1 filed a reply on June 28, 2022, Dkt. 20. Defendant's reply avers, after the motion to compel was
2 filed, Plaintiff (1) served a Rule 26 computation of damages and (2) submitted a second
3 supplemental answer to Interrogatory 10, that "finally provided a complete enough response to
4 that discovery as well." *Id.* at 2.

5 Defendant further averred Plaintiff had not yet provided a signed Rule 35 verification
6 page for interrogatory answers served on March 18, June 16, and June 17, 2022, but based upon
7 Plaintiff's lawyer's assurances that the verification pages were forthcoming, Defendant withdraws
8 discovery requests for the verification pages but seeks sanctions. *Id.*

9 On June 29, 2022, Plaintiff filed an untimely response. Dkt. 22. Plaintiff's counsel avers
10 he spoke with Defense counsel before the discovery motion was filed and gave assurances the
11 requested discovery would be provided. Counsel contends his representation of Plaintiff has been
12 marked by turbulence: he is closing his practice; Plaintiff has been unable to secure new counsel;
13 and Plaintiff and counsel are "underfunded" for the litigation. Despite these challenges, counsel
14 contends he made good faith efforts to resolve the present discovery dispute and sought
15 clarification from Defense counsel about what Defendant sought in discovery. However, rather
16 than embracing the spirit of the Court's "meet and confer" requirement, Plaintiff claims Defense
17 counsel filed the instant motion.

18 Given the history of this case, the Court declines to award attorney fees to either side at
19 this point. The Court highlights the phrase "at this point" because the Court will not be inclined
20 to defer imposition of sanctions going forward when appropriate. Trial in this case is set to begin
21 in six months and the Court therefore expects the parties to work together in a cooperative and
22 efficient manner.

23 Accordingly, the Court ORDERS:

ORDER REGARDING MOTION TO
COMPEL DISCOVERY AND FOR
SANCTIONS - 2

1. Defendant's motion to compel discovery, Dkt. 18, is DENIED as moot.
2. The requests for sanctions lodged by Defendant, Dkts. 18, 20, and requested by Plaintiff, Dkt. 22, are DENIED.
3. With trial set to start in six months, if the parties wish to consent to Magistrate Judge Tsuchida, they should advise his clerk, by July 11, 2022, at Andy_Quach@wawd.uscourts.gov.

DATED this 5th day of July, 2022.



BRIAN A. TSUCHIDA
United States Magistrate Judge